

be materially decreased and believe that an efficient gas-oil ratio should be determined and enforced in the Panhandle field, and in all other fields as well. We think that gas necessarily produced in the efficient operation of an oil well should be first stripped of its gasoline content, then used in the manufacture of carbon black, or used for light and fuel. Of course, exceptions would have to be made where there are no carbon black plants accessible, and no industrial use is available.

(8). We recommend that there be levied and collected a tax of 2 cents per thousand cubic feet upon all gas produced and sold at the well at a price less than 4 cents per thousand cubic feet.

(9). We recommend legislation requiring all natural gas produced in Texas to be stripped of its gasoline content before moving more than twenty miles from point of origin in pipe lines.

(10). It is further recommended that any taxes above referred to be levied as an occupation tax on the occupation of producing natural gas and not as a tax on the property itself.

In closing this report we deplore the large wastage of gas which now exists in the Panhandle Oil and Gas Field, however, the conservation of a resource naturally necessitates control and usage of the production by the body entrusted with the regulation of such resource, in order to protect the various interest involved. We think it is safe to say that the so-called waste problem in the Panhandle Gas Field would have been solved long before this time of the provisions of Section 4 of the Oil and Gas Conservation Law had been carried out as the Legislature intended, all of which goes to show that conservation is impossible without an equitable allocation of the market requirements.

Unless the comprehensive legislative program herein outlined can be enacted and enforced, the State cannot continue its conservation policy.

Respectfully submitted,

BECK, Chairman,  
WOODRUFF, Vice-Chairman  
REDDITT, Secretary,  
MARTIN,  
POAGE.

## SEVENTEENTH DAY.

(Continued.)

Senate Chamber,  
Austin, Texas,  
September 18, 1934.

The Senate met at 10 o'clock a. m., pursuant to recess and was called to order by Lieutenant Governor Edgar E. Witt.

### Senate Bill No. 9.

The Chair laid before the Senate S. B. No. 9 which was pending business.

S. B. No. 9, A bill to be entitled "An Act to aid the Brazos River Conservation and Reclamation District in preparing the necessary plans, specifications and data and in making the necessary surveys, etc, and declaring an emergency."

Pending.

### Senate Bill No. 21.

Senator Pace asked unanimous consent to have advanced printing on S. B. No. 21.

Consent was granted.

### Senate Resolution No. 14.

Senator Beck sent up the following resolution:

Whereas, The Senate is in need of several additional copies of session laws, Acts of the Forty-third Legislature, therefore be it

Resolved that the Secretary of State furnish to the Senate of Texas six bound copies of the above laws, one for the use of Senate Investigating Committee, one for the Lieutenant Governor, one for Secretary of Senate, one for Librarian and two copies for General use of the Senate.

S. R. No. 14 was read and adopted.

### Messages from the Governor.

The Chair recognized the Doorkeeper, who introduced a messenger from the Governor with the following message from the Governor:

Executive Office,  
Austin, Texas, Sept. 17, 1934.  
To the Forty-third Legislature in Third Called Session.  
By request from Senators Regan, Rawlings, Stone and others, I submit

for your consideration the attached bill, being: "An Act authorizing water control and improvement districts to assign water contracts for a period of not exceeding forty years, or to assign the revenues accruing or to accrue under such contract, and to receive therefor either a lump sum in cash or outstanding bond of said district; to sell or contract to sell water for generation of electric power over a period of not exceeding forty years; to issue negotiable refunding bonds for exchange for outstanding indebtedness or to sell same and redeem a like amount of outstanding indebtedness; to enter into escrow agreements relative to payment of its bonds and to pledge its revenues to the payment thereof; to provide and agree to provide for an emergency fund for repairs to its irrigation system; to enter into contract for the operation and maintenance of its irrigation system for such period of years as may be specified in the assignment of such system; providing that the statutes of limitations shall not run against any refunding bonds of such districts hereafter issued; authorizing the issuance of improvement bonds, and levying a tax therefor; authorizing the levy and collection of special assessments, and providing the method of such levy and collection; authorizing the refunding of such improvement bonds; authorizing the cancellation of any bonds heretofore authorized by an election, providing the method therefor; providing that any outstanding past due interest coupons of any bonds of such districts shall be received at par in payment of taxes due such districts and due on or before January 31st, 1934; repealing Chapter 22 of the General Laws of the Third Called Session of the Forty-second Legislature; declaring the intent of this Act; providing that the invalidity of any section, provision or part of this Act shall not affect the remainder of this Act; providing that the provisions of this Act shall be construed as being in addition to existing statutes and not as repealing same; and declaring an emergency."

Provided, however, that the attached bill be amended as follows:

Amend the attached bill by inserting after the word "amended" in

line four (4) of Section One (1) the following:

"located wholly within one county, such county having a population of not less than 5,000 nor more than 7,500, according to the last preceding Federal census," and amend the caption to conform.

Respectfully submitted,

MIRIAM A. FERGUSON,

Governor of Texas.

Austin, Texas, Sept. 18, 1934.

To the Forty-third Legislature in Third Called Session.

By request of Senator Regan and Representative Jackson, I submit for your consideration the attached bill being: "An Act to provide for the cession by the State of Texas to the United States of America of all right, title and interest which the State of Texas may have in and to certain lands in El Paso County and Hudspeth County, comprising the bed and banks of the Rio Grande; retaining jurisdiction as to certain of such lands in the State of Texas for certain purposes; reserving the rights of the State of Texas and residents and citizens thereof to waters of the Rio Grande, and in the use thereof, and in the access thereto, and declaring an emergency."

By request of Representatives Latham, Holloway, Dunagan and others, I submit for your consideration the attached bill, being: "An Act amending Article 3902 of the Revised Civil Statutes of 1925, as amended by Chapter 220, Acts of the Regular Session of the Forty-third Legislature, and as amended by Chapter 59 of the Second Called Session of the Forty-third Legislature; providing for salaries that may be paid to certain assistants to certain officers in certain counties; and amending Article 3886 of Revised Civil Statutes of 1925 as amended by Chapter 20 of Acts of Regular Session of Forty-first Legislature, Fourth Called Session and as amended by Chapter 110, Acts of Forty-third Legislature, First Called Session and as amended by Chapter 49, Acts of the Forty-third Legislature, First Called Session, and as amended by Chapter 18, Acts of Forty-third Legislature, Second Called Session and as amended by Chapter 40, Acts of Forty-third Legisla-

ture First Called Session \* \* \*;  
and declaring an emergency."

Respectfully submitted,  
MIRIAM A. FERGUSON,  
Governor of Texas.

Austin, Texas, Sept. 18, 1934.  
To the Forty-third Legislature in  
Third Called Session.

By request of Senators Neal, Pace, Woodul and others, I am submitting for your consideration the attached bill being: "An Act authorizing cities having more than sixteen thousand inhabitants as shown by the last Federal census, preceding such action, and containing a junior college within their corporate limits, to establish community centers consisting of all land and buildings or structures necessary therefor, including gymnasiums, auditoriums, natatoriums and dormitories to furnish residence to teachers and students attending schools and college in any such city; authorizing such cities to issue bonds or notes to purchase, construct or improve the properties and facilities comprising such community centers and to mortgage and encumber all such properties and facilities, the income therefrom, and everything pertaining thereto, to secure payment of such bonds or notes \* \* \*; and declaring an emergency."

I also submit for your consideration at the request of Senator Joe M. Moore the attached bill being: "An Act amending Article 198, Title 8, Revised Civil Statutes of 1925, as amended by Chapter 38, of the Forty-second Legislature at its Third Called Session, by placing Hunt County within, to compose a part of, both the Fifth (5th) and Sixth (6th) Supreme Judicial Districts of Texas, and regulating the filing, in the respective Courts of Civil Appeals established in said districts, cases appealed from the trial courts of Hunt County, and declaring an emergency."

By request of the State Treasurer, I am submitting for your consideration the attached bill being: "An Act to amend Article 4368 of the Revised Civil Statutes of Texas for 1925, relating to the official bond of the State Treasurer, and providing that the State Treasurer shall enter into such bond as may be required by an Act of Congress to protect any Federal funds which shall have been re-

ceived or which may hereafter be received by the State of Texas and deposited with the State Treasurer \* \* \*; and declaring an emergency."

At the request of Senator Frank H. Rawlings, I submit for your consideration the attached bill being: "An Act validating the creation and changes in boundaries of all independent school districts having within their limits a city with a population of one hundred sixty thousand (160,000) or more, according to the last preceding Federal census, validating all elections in such districts authorizing the issuance of bonds, validating bonds heretofore voted in such districts, and tax levies made to pay the principal and interest of such bonds, providing that such validation shall not apply to any district or any bonds now involved in litigation, providing that the unconstitutionality of any part of this Act shall not affect the remaining parts thereof, and declaring an emergency."

Respectfully submitted,  
MIRIAM A. FERGUSON,  
Governor of Texas.

Austin, Texas, Sept. 18, 1934.  
To the Forty-third Legislature in  
Third Called Session.

By request of Representative Harlee Morrison, I submit for your consideration the attached bill being: "An Act relating to any city which has not less than 8700 nor more than 8800 inhabitants as shown by the Federal census last preceding the action herein authorized; providing that the governing body of any such city, in making up the annual appropriation of the income and revenue of any waterworks system, electric light plant or system, sewer system, or other public utility system, service or enterprise, nor or hereafter owned and operated by any such city, shall first provide for maintenance and operating expenses of such system, service or enterprise, shall then provide for payment of principal and interest of any indebtedness outstanding against such system, service or enterprise \* \* \*, and declaring an emergency."

Respectfully submitted,  
MIRIAM A. FERGUSON,  
Governor of Texas.

Austin, Texas, Sept. 18, 1934.  
To the Forty-third Legislature in  
Third Called Session.

At the request of Representative Homer L. Leonard and others I submit for your consideration the attached bill to be entitled "An Act authorizing municipalities, political subdivisions and taxing districts to proceed under the provisions of Federal bankruptcy laws enacted for the relief of such municipalities, political subdivisions and taxing districts; and declaring an emergency."

Respectfully submitted,

MIRIAM A. FERGUSON,  
Governor of Texas.

Austin, Texas, Sept. 18, 1934.  
To the Forty-third Legislature in  
Third Called Session.

By request of Representative Jefferson, I submit for your consideration the attached bill being: "An Act amending Chapter 19, House Bill No 88, Acts of the Second Called Session of the Forty-third Legislature, declaring the policy of the Legislature to provide for the general welfare by co-operation with the Federal Government in making effective the provisions of the National Agricultural Adjustment Act and the National Recovery Act within the State of Texas with reference to producers, distributors and processors of milk and milk products; defining certain terms used in the bill; providing for application to the Commissioner of Agriculture by groups engaged in the milk industry in counties having a population not less than 290,000 and not more than 300,000; for the setting up of a code, codes or agreement; authorizing local milk industry boards in said counties after hearing to set up and promulgate a code, codes or agreements for fair competition for the milk industry \* \* \*; and declaring an emergency."

Respectfully submitted,

MIRIAM A. FERGUSON,  
Governor of Texas.

#### Senate Bill No. 9.

The Oneal amendment to S. B. No. 9 was adopted by the following vote:

Yeas—18.

Blackert.	Duggan.
Collie.	Greer.
DeBerry.	Hornsby.

Moore.  
Murphy.  
Neal.  
Oneal.  
Pace.  
Poage.

Purl.  
Rawlings.  
Redditt.  
Regan.  
Stone.  
Woodruff.

Nays—8.

Beck.  
Holbrook.  
Martin.  
Parr.

Sanderford.  
Small.  
Woodul.  
Woodward.

Absent—Excused.

Cousins.  
Fellbaum.

Hopkins.  
Patton.

#### Senate Bill No. 22.

Senator Moore sent up the following bill:

By Senator Moore:

S. B. No. 22, A bill to be entitled "An Act amending Article 198, Title 8, Revised Civil Statutes of 1925, as amended by Chapter 38, of the Forty-second Legislature at its Third Called Session, by placing Hunt County within, to compose a part of, both the Fifth (5th) and Sixth (6th) Supreme Judicial Districts of Texas, and regulating the filing, in the respective Courts of Civil Appeals established in said districts, cases appealed from the trial courts of Hunt County, and declaring an emergency."

Read first time and referred to the Committee on Judicial Districts.

#### Senate Bill No. 23.

Senator Rawlings sent up the following bill:

By Senator Rawlings:

S. B. No. 23, A bill to be entitled "An Act validating the creation and changes in boundaries of all independent school districts having within their limits a city with a population of one hundred sixty thousand (160,000) or more, according to the last preceding Federal census, validating all elections in such districts authorizing the issuance of bonds, validating bonds heretofore voted in such districts, and tax levies made to pay the principal and interest of such bonds, providing that such validation shall not apply to any district or any bonds now involved in litigation, providing that the uncon-

stitutionality of any parts of this Act shall not affect the remaining parts thereof, and declaring an emergency."

Read first time and referred to the Committee on Educational Affairs.

#### Senate Bill No. 24.

Senator Woodul sent up the following bill:

By Senator Woodul:

S. B. No. 24, A bill to be entitled "An Act amending Chapter 19, House Bill No. 88, Acts of the Second Called Session of the Forty-third Legislature, declaring the policy of the Legislature to provide for the general welfare by co-operation with the Federal Government in making effective the provisions of the National Agricultural Adjustment Act and the National Recovery Act within the State of Texas with reference to producers, distributors and processors of milk and milk products; defining certain terms used in the bill; providing for application to the Commissioner of Agriculture by groups engaged in the milk industry in counties having a population in excess of 350,000, according to the Federal census last preceding the time when said application is made from said counties for the setting up of a code, codes or agreements; authorizing local milk industry boards in said counties after hearing to set up and promulgate a code, codes or agreements for fair competition for the milk industry; authorizing said board to impose such conditions as are necessary to make the codes effective and to establish rules and regulations for their conduct; providing penalties for violation of such codes; providing jurisdiction for district courts affecting the operation of the codes; directing county and district attorneys to bring actions to enforce this Act; providing for the amending, modification or change of codes set up under this Act; providing for the publication by said board of codes; authorizing the said board to suspend or revoke certificates of authority; providing a penalty for violation of the Act; providing a fee for the certificates of authority and making provisions for funds for the administration of this Act; making an appropriation of such funds for

the enforcement of the Act; providing that if any section or provision of the Act should be declared unconstitutional such decisions shall not affect other provisions or portions of this Act; validating all boards and members thereof elected and approved by the Commissioner of Agriculture of the State of Texas under the provisions of Chapter 19, House Bill No. 88, Acts of the Second Called Session of the Forty-third Legislature, and all proceedings had by any such boards; and declaring an emergency."

Read first time and referred to the Committee on Agricultural Affairs.

#### Senate Bill No. 25.

Senator Regan sent up the following bill:

By Senator Regan:

S. B. No. 25, A bill to be entitled "An Act to provide for the cession by the State of Texas to the United States of America of all right, title and interest which the State of Texas may have in and to certain lands in El Paso County and Hudspeth County, comprising the bed and banks of the Rio Grande; retaining jurisdiction as to certain of such lands in the State of Texas for certain purposes; reserving the rights of the State of Texas and residents and citizens thereof to waters of the Rio Grande, and in the use thereof, and in the access thereto, and declaring an emergency."

Read first time and referred to the Committee on Mining, Irrigation and Drainage.

#### Senate Bill No. 26.

Senator Regan sent up the following bill:

By Senator Regan:

S. B. No. 26, A bill to be entitled "An Act authorizing water control and improvement districts to assign water contracts for a period of not exceeding forty years, or to assign the revenues accruing or to accrue under such contract, and to receive therefor either a lump sum in cash or outstanding bonds of said district; to sell or contract to sell water for the generation of electric power over a period of not exceeding forty years; to issue negotiable refunding bonds for exchange for outstanding

indebtedness or to sell same and redeem a like amount of outstanding indebtedness; to enter into escrow agreements relative to payment of its bonds and to pledge its revenues to the payment thereof; to provide and agree to provide for an emergency fund for repairs to its irrigation system; to enter into contract for the operation and maintenance of its irrigation system for such period of years as may be specified in the assignment of such system; providing that the statutes of limitations shall not run against any refunding bonds of such districts hereafter issued; authorizing the issuance of improvement bonds, and levying a tax therefor; authorizing the levy and collection of special assessments, and providing the method of such levy and collection; authorizing the refunding of such improvement bonds; authorizing the cancellation of any bonds heretofore authorized by an election, providing the method therefor; providing that any outstanding past due interest coupons of any bonds of such districts shall be received at par in payment of taxes due such districts and due on or before January 31, 1934; repealing Chapter 22 of the General Laws of the Third Called Session of the Forty-second Legislature; declaring the intent of this Act; providing that the invalidity of any section, provision or part of this Act shall not affect the remainder of this Act; providing that the provisions of this Act shall be construed as being in addition to existing statutes and not as repealing same; and declaring an emergency."

Read first time and referred to the Committee on Mining, Irrigation and Drainage.

#### Messages From the House.

The Chair recognized the Doorkeeper, who introduced a messenger from the House with the following messages:

Hall of the House of Representatives,  
Austin, Texas, Sept. 18, 1934.  
Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 12, A bill to be entitled "An Act to extend the time for the

payment of notes or obligations executed prior to November 1, 1901, by purchasers of school land for the unpaid balance of principal due the State thereon, such extensions to be for a period of ten years from and after the passage of this Act; and declaring an emergency."

H. B. No. 65, A bill to be entitled "An Act making it unlawful to kill wild fox, or to take or have in one's possession for barter or sale the pelts of wild fox, in certain counties; providing a penalty for violation of this Act; and declaring an emergency."

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

Hall of the House of Representatives,  
Austin, Texas, Sept. 18, 1934.

Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

H. B. No. 32, A bill to be entitled "An Act defining 'oleomargarine' and other terms used in this Act; imposing a tax of ten cents per pound on certain oleomargarines, prescribing the method for collecting said tax; providing for the keeping and furnishing of records, certificates, and reports; providing and regulating the manner of shipment and delivery of oleomargarine; fixing liability for taxes; etc., and declaring an emergency."

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

Hall of the House of Representatives,  
Austin, Texas, Sept. 18, 1934.

Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bills:

H. B. No. 4, A bill to be entitled "An Act making an appropriation to pay judgments of the district and county courts refunding to the heirs, devisees, legatees, or legal representatives of deceased persons, whose estates have escheated to the State, such sums of money belonging to such escheated estates as have been paid into the Public Treasury; authorizing the payment of such claims on the taking effect of this Act and

the filing with the Comptroller of a copy of the order of the court under the seal of the court."

H. B. No. 16, A bill to be entitled "An Act making an emergency appropriation of money for the State Department of Agriculture; providing for the purposes thereof, and manner of expenditure, and declaring an emergency."

(With engrossed rider.)

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

The House has passed the following bills:

H. B. No. 42, A bill to be entitled "An Act authorizing the Secretary of the Board of Legal Examiners with the approval of the Supreme Court to appoint an assistant to serve during the months of February and March, June and July, October and November, prescribing a salary for same, authorizing payment of said assistants out of the fees of office of the clerk of the Supreme Court, and declaring an emergency."

H. B. No. 46, A bill to be entitled "An Act to amend Subdivision 32, of Article 199, Title 8, of the Revised Civil Statutes of the State of Texas, 1925, amended by Act 1931, Forty-second Legislature, First Called Session, page 27, Chapter 14, Section 1, amended by Acts 1933, Forty-third Legislature, Regular Session, page 371, Chapter 145, so as to change the time and terms of holding the terms of district court in Nolan, Mitchell, Scurry and Borden Counties, constituting the Thirty-second Judicial District of Texas; etc., and declaring an emergency."

H. B. No. 47, A bill to be entitled "An Act making appropriation to cover deficiencies in appropriations heretofore made for transcript fees for court reporters as provided by law for the fiscal years ending August 31, 1934 and 1935, and declaring an emergency."

H. B. No. 58, A bill to be entitled "An Act relating to any city which has not less than 8,700 nor more than 8,800 inhabitants, as shown by the Federal Census last preceding the action herein authorized; providing that the governing body of any such city, in making up the annual appropriation of the income and rev-

enue of any waterworks system, electric light plant or system, sewer system, or any other public utility system, service or enterprise, now or hereafter owned and operated by any such city, shall first provide for maintenance and operating expenses of such system, service or enterprise, shall then provide for payment of principal and interest of any indebtedness outstanding against such system, service or enterprise, and may then make such appropriations as remaining income and revenue of such system, service or enterprise may justify; etc., and declaring an emergency."

H. B. No. 62, A bill to be entitled "An Act to provide a more adequate manner of compensating county judges in counties which have a population of not less than 195,000 and not more than 200,000, according to the 1930 United States census, and providing for the employment of a stenographer and other help for such judges, and declaring an emergency."

H. B. No. 67, A bill to be entitled "An Act authorizing cities and towns with a population of more than one thousand and located on the coast of Texas, or any bay, gulf or inlet, and in which commercial fishing and shrimping is an established industry, to build or purchase municipal fish markets, and to borrow money and accept grants for such purpose from the Federal Government or any of its agencies, or to borrow money from any other sources and to issue revenue bonds or warrants therefor and secure the payment of the same by mortgaging the physical property so acquired and the net revenues therefrom, and providing that such cities may stipulate with the lender that a purchaser at sale or foreclosure shall have a permit to operate the same in accordance with the laws then in effect regulating such industries; and providing that such markets may be improved, repaired or extended; and providing that the provisions of Article 2368-a, Revised Civil Statutes of Texas, with reference to notice, the right of referendum and competitive bidding shall be applicable to all projects financed under this Act; and providing that the revenue warrants or bonds issued hereunder shall have stamped or

written thereon that the holder thereof never shall be entitled to demand the payment of such bonds or warrants out of any funds raised or or be raised by taxation, and declaring an emergency."

H. B. No. 68, A bill to be entitled "An Act to provide that cities with a population of more than nine thousand seventy (9,070) and less than nine thousand and eighty (9,080) inhabitants, according to the last preceding Federal census, may mortgage and encumber their abattoirs and the income thereof for the purpose of constructing, acquiring or improving the same; providing for manner of issuance of notes or warrants for such purposes, and providing that this law shall take precedence over conflicting charter provisions; repealing all laws in conflict herewith; providing a saving clause, and declaring an emergency."

Respectfully submitted

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

Hall of the House of Representatives,  
Austin, Texas, Sept. 18, 1934.  
Hon. Edgar E. Witt, President of the Senate.

Sir, I am directed by the House to inform the Senate that the House has concurred in Senate amendments to H. B. No. 14 by a viva voce vote.

Hall of the House of Representatives,  
Austin, Texas, Sept. 17, 1934.  
Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has refused to concur in Senate amendments to H. B. No. 1 and requests the Senate for the appointment of a Free Conference Committee to adjust the differences between the two Houses. The following are appointed as conferees on the part of the House:

Long, Graves, Pope, Reed of Bowie and Reed of Dallas.

Respectfully submitted

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

Hall of the House of Representatives,  
Austin, Texas, Sept. 18, 1934.  
Hon. Edgar E. Witt, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following bill:

H. B. No. 70, A bill to be entitled "An Act making it a penal offense for any officer or employe of the Texas Prison System, or any other person, to instigate, connive, attempt to cause, assist in or conspire with others to cause any mutiny, or riot, or in any manner aid in the escape of any prisoner from the Texas penitentiary, from any prison farm, etc., and declaring an emergency."

Respectfully submitted,

LOUISE SNOW PHINNEY,  
Chief Clerk, House of Representatives.

#### House Bills Referred.

H. B. No. 12, referred to the Committee on Public Lands and Land Office.

H. B. No. 65, referred to the Committee on Fish and Game.

H. B. No. 32, referred to the Committee on State Affairs.

H. B. No. 4, referred to the Committee on Finance.

H. B. No. 16, referred to the Committee on Finance.

H. B. No. 42, referred to the Committee on Finance.

H. B. No. 47, referred to the Committee on Finance.

H. B. No. 62, referred to the Committee on Civil Jurisprudence.

H. B. No. 67, referred to the Committee on Town and City Corporations.

H. B. No. 68, referred to the Committee on Town and City Corporations.

H. B. No. 58, referred to the Committee on Town and City Corporations.

H. B. No. 46, referred to the Committee on Judicial Districts.

H. B. No. 70, referred to the Committee on Civil Jurisprudence.

#### Senate Bill No. 23.

Senator Rawlings asked unanimous consent to take up and consider out of its regular order S. B. No. 23.

Consent was given.

S. B. No. 23, A bill to be entitled "An Act validating the creation and changes in boundaries of all independent school districts having within their limits a city with a population of one hundred sixty thousand



(160,000) or more, according to the last preceding Federal census, validating all elections in such districts authorizing the issuance of bonds, validating bonds heretofore voted in such districts, and tax levies made to pay the principal and interest of such bonds, providing that such validation shall not apply to any district or any bonds now involved in litigation, providing that the unconstitutionality of any part of this Act shall not affect the remaining parts thereof, and declaring an emergency."

The rule requiring committee reports to lie over one day was suspended by unanimous consent.

On motion of Senator Rawlings, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 23 was put on its second reading by the following vote:

## Yeas—28.

Beck.	Pace.
Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Greer.	Rawlings.
Holbrook.	Redditt.
Hopkins.	Regan.
Hornsby.	Sanderford.
Martin.	Small.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.

## Absent—Excused.

Cousins. Fellbaum.

The committee report recommending that the bill be not printed was adopted by unanimous consent.

The bill was read second time and passed to engrossment.

On motion of Senator Rawlings the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 23 was put on its third reading and final passage by the following vote:

## Yeas—28.

Beck.	Holbrook.
Blackert.	Hopkins.
Collie.	Hornsby.
DeBerry.	Martin.
Duggan.	Moore.
Greer.	Murphy.

Neal.	Redditt.
Oneal.	Regan.
Pace.	Sanderford.
Parr.	Small.
Patton.	Stone.
Poage.	Woodruff.
Purl.	Woodul.
Rawlings.	Woodward.

## Absent—Excused.

Cousins. Fellbaum.

Read third time and finally passed by the following vote:

## Yeas—28.

Beck.	Pace.
Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Greer.	Rawlings.
Holbrook.	Redditt.
Hopkins.	Regan.
Hornsby.	Sanderford.
Martin.	Small.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.

## Absent—Excused.

Cousins. Fellbaum.

## House Bill No. 14.

Senator Woodul asked to take up and pass at this time H. B. No. 14.

Consent was granted.

H. B. No. 14, A bill to be entitled "An Act to amend Section 2, Chapter 8, of the General Laws of the Thirty-fourth Legislature, passed at its First Called Session, as amended by S. B. No. 143, Section 2, Chapter 24, of the General Laws of the Forty-first Legislature, passed at its Regular Session in 1929; also providing for an official court reporter of the County Court at Law No. 2 of Harris County, Texas, fixing the duties and compensation of said reporter, conferring civil as well as criminal jurisdiction upon said court, providing for filing and docketing and transferring causes, and fixing effective date."

Senator Woodul sent up the following amendments to H. B. No. 14:

Amend H. B. No. 14, page 2, line 12, by adding after the word

"Texas," a comma and inserting "in civil matters."

**WOODUL.**

Read and adopted by viva voce vote.

Amend H. B. No. 14 by striking out Section 3 thereof and inserting in lieu thereof the following:

"Section 3. The County Clerk of Harris County, Texas shall act as and be the clerk of said county court at law No. 2 of Harris County, Texas in civil matters and the District Clerk of Harris County, Texas shall act as and be the clerk of the county court at law and of said county court at law No. 2 of Harris County, Texas in criminal matters."

**WOODUL.**

Read and adopted by viva voce vote.

Amend caption of H. B. No. 14 by striking out all after the word "causes" in line eleven (11) and insert in lieu thereof the following:

"Providing that the County Clerk of Harris County, Texas, shall be the clerk of said county court at law No. 2 in civil matters and that the District Clerk of Harris County, Texas shall be the clerk of the county court at law No. 2 of Harris County, Texas in criminal matters; declaring an emergency and fixing effective date of this Act."

**WOODUL.**

Read and adopted by viva voce vote.

The rule requiring committee reports to lie over one day was suspended by unanimous consent.

The committee report recommending that the bill be not printed was adopted by unanimous consent.

The bill was read second time and put on its third reading.

On motion of Senator Woodul the constitutional rule requiring bills to be read on three several days was suspended and H. B. No. 14 was put on its third reading and final passage by the following vote:

**Yeas—28.**

Beck.	Greer.
Blackert.	Holbrook.
Collie.	Hopkins.
DeBerry.	Hornsby.
Duggan.	Martin.

Moore.  
Murphy.  
Neal.  
Oneal.  
Pace.  
Parr.  
Patton.  
Poage.  
Purl.

Rawlings.  
Redditt.  
Regan.  
Sanderford.  
Small.  
Stone.  
Woodruff.  
Woodul.  
Woodward.

**Absent—Excused.**

Cousins.

Fellbaum.

Read third time and finally passed by the following vote:

**Yeas—28.**

Beck.  
Blackert.  
Collie.  
DeBerry.  
Duggan.  
Greer.  
Holbrook.  
Hopkins.  
Hornsby.  
Martin.  
Moore.  
Murphy.  
Neal.  
Oneal.

Pace.  
Parr.  
Patton.  
Poage.  
Purl.  
Rawlings.  
Redditt.  
Regan.  
Sanderford.  
Small.  
Stone.  
Woodruff.  
Woodul.  
Woodward.

**Absent—Excused.**

Cousins.

Fellbaum.

**Recess.**

On motion of Senator Moore, the Senate at 12:00 o'clock noon recessed until 2:00 o'clock p. m.

**After Recess.**

The Senate met at 2:35 o'clock p. m., pursuant to recess and was called to order by Lieutenant Governor Edgar E. Witt.

**Senate Bill No. 9.**

Recurring business was Senate Bill No. 9.

Senator Purl sent up the following amendment:

Amend S. B. No. 9 by adding thereto the following:

"Repealing Article 7150, Section 4, of the Revised Civil Statutes of 1925."

**PURL.**

The amendment was read.

Senator Holbrook moved to table the amendment by Senator Purl.

The motion to table was lost by the following vote:

Yeas—12.

Blackert.	Parr.
Holbrook.	Patton.
Hopkins.	Poage.
Hornsby.	Sanderford.
Martin.	Stone.
Murphy.	Woodul.

Nays—13.

Beck.	Rawlings.
Collie.	Redditt.
DeBerry.	Regan.
Moore.	Small.
Oneal.	Woodruff.
Pace.	Woodward.
Purl.	

Absent.

Duggan.	Neal.
Greer.	

Absent—Excused.

Cousins.	Fellbaum.
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Point of Order.

Senator Martin raised the point of order that the amendment was not germane because the bill had to do with State taxes and the amendment was concerning county taxes.

The Chair overruled the point of order.

The amendment by Senator Purl was lost by the following vote:

Yeas—10.

Beck.	Moore.
Collie.	Oneal.
DeBerry.	Pace.
Duggan.	Parr.
Greer.	Rawlings.

Nays—17.

Blackert.	Redditt.
Holbrook.	Regan.
Hopkins.	Sanderford.
Hornsby.	Small.
Martin.	Stone.
Murphy.	Woodruff.
Patton.	Woodul.
Poage.	Woodward.
Purl.	

Absent.

Neal.

Absent—Excused.

Cousins.	Fellbaum.
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S. B. No. 9 was engrossed by the following vote:

Yeas—13.

Blackert.	Patton.
Greer.	Poage.
Holbrook.	Sanderford.
Hopkins.	Stone.
Hornsby.	Woodruff.
Martin.	Woodul.
Parr.	

Nays—12.

Beck.	Pace.
Collie.	Purl.
DeBerry.	Rawlings.
Duggan.	Redditt.
Moore.	Small.
Oneal.	Woodward.

Absent—Excused.

Fellbaum.

(Pairs Recorded.)

Senator Murphy (present) who would vote nay, with Senator Neal (absent) who would vote yea.

Senator Regan (present) who would vote nay, with Senator Cousins (absent) who would vote yea.

On motion of Senator Stone, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 9 was put on its third reading and final passage by the following vote:

Yeas—22.

Beck.	Patton.
Blackert.	Poage.
Collie.	Purl.
Duggan.	Redditt.
Holbrook.	Regan.
Hopkins.	Sanderford.
Hornsby.	Small.
Martin.	Stone.
Murphy.	Woodruff.
Pace.	Woodul.
Parr.	Woodward.

Nays—4.

DeBerry.	Oneal.
Moore.	Rawlings.

Absent.

Greer.	Neal.
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Absent—Excused.

Cousins.	Fellbaum.
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Read third time and finally passed by the following vote:

Yeas—13.

Blackert.	Patton.
Greer.	Poage.
Holbrook.	Sanderford.
Hopkins.	Stone.
Hornsby.	Woodruff.
Martin.	Woodul.
Parr.	

Nays—12.

Beck.	Pace.
Collie.	Purl.
DeBerry.	Rawlings.
Duggan.	Redditt.
Moore.	Small.
Oneal.	Woodward.

Absent—Excused.

Fellbaum.

(Pairs Recorded.)

Senator Regan (present) who would vote nay, with Senator Cousins (absent) who would vote yea.

Senator Murphy (present) who would vote nay, with Senator Neal (absent) who would vote yea.

Points of Order on S. B. No. 9, by Stone, et al. The bill being an Act to release, donate, or grant for a period of twenty years the State ad valorem taxes unto the Brazos River Conservation and Reclamation District.

Austin, Texas, Sept. 18, 1934.

Hon. Edgar E. Witt, President of the Senate.

Sir: We raise the following points of order on the consideration and passage of the above bill:

1. We raise the point of order that the bill was not finally passed for the reason that it received less than a two-thirds majority of the Senators present and voting on the final passage of the bill, the vote being 13 yeas and 12 nays. That, under Section 10 of Article 8 of the Constitution of Texas, a two-thirds vote of each House of the Legislature is required to pass this character of bill. That, the bill did not receive such two-thirds majority vote, but, in fact, received less than a majority of the membership of the Senate. That the bill shows on its face that it is attempted to be passed under

the calamity provision of Section 10, Article 8, of the Constitution.

We make the point of order, therefore, that the bill did not receive sufficient votes to finally pass the same.

2. That the consideration and passage of the bill is prohibited by Section 48 of Article 3 of the Constitution.

3. That the consideration and passage of the bill is prohibited by Section 6 of Article 8 of the Constitution.

4. That the consideration and passage of the bill is prohibited by Section 50 of Article 3 of the Constitution.

5. That the consideration and passage of the bill is prohibited by Section 51 of Article 3 of the Constitution.

6. That the consideration and passage of the bill is prohibited by Section 7 of Article 8 of the Constitution.

7. That the consideration and passage of the bill is prohibited by Section 35 of Article 3 of the Constitution.

8. That the consideration and passage of the bill is prohibited by Section 1 of Article 8 of the Constitution.

9. That the consideration and passage of the bill is prohibited by Section 55 of Article 3 of the Constitution.

10. We make the further point of order that the money appropriated, donated, or granted under the terms of this bill is not to be used for any governmental purpose, which is in violation of the Constitution of the State of Texas.

11. We make the further point of order that, under the terms of the bill, State ad valorem taxes are released in violation of the Constitution of this State, and are not "granted and donated," and, therefore, it would take two-thirds vote to pass the bill.

12. That the bill is contrary to the Constitution of the State of Texas.

13. That there is no provision of the Constitution authorizing the Legislature to make a donation or grant such as is provided for by this bill.

The proponents of this measure throughout its consideration by the

Senate urged that it is justified under Section 10 of Article 8 of the Constitution, which section permits the release of taxes where there has been a great public calamity. Throughout the consideration and discussion of this measure, the proponents urged that such calamity as justified the release of the taxes existed in the district defined by the bill. However, no facts or evidence were offered disclosing that any such calamity does exist, and, when the opponents called upon the proponents to bring forth facts showing that there had been a calamity justifying the release of the taxes, they respectfully declined to make such showing, and no such facts have ever been presented to the Legislature.

We respectfully submit that the foregoing points of order and each of them should be sustained, and in support of the points thus raised, we submit herewith, which instrument is made a part hereof, a copy of the opinion of the Attorney General of this State, dated March 9, 1927, addressed to the Hon. W. S. Barron, Speaker of the House of Representatives, Austin, Texas, and signed by Claude Pollard, Attorney General of Texas.

We request that the points of order herein raised, together with the ruling of the President of the Senate and the opinion of the Attorney General referred to, be printed in the Senate Journal.

Respectfully submitted,  
 RAWLINGS,  
 DeBERRY,  
 PACE,  
 REDDITT,  
 MURPHY,  
 PURL.

Memorandum in support of the point of order raised against S. B. No. 9 by Stone, et al., the bill being an Act to release, donate, or grant for a period of twenty years the State ad valorem taxes unto the Brazos River Conservation and Reclamation District.

When this bill was placed on third reading and final passage, September 18, 1934, the vote was thirteen yeas and twelve nays.

The point of order was raised that a two-thirds majority vote was necessary to pass a bill of this kind, it being contended by the opponents

that the bill was governed by Section 10 of Article 8 of the Constitution, which authorizes the release of ad valorem taxes in cases of great public calamity, and provides that a two-thirds majority vote shall be necessary. The proponents contended that a majority only was required, and recited for authority the ruling of the Speaker of the House, quoted in the House Journal of February 4, 1925, page 365.

In overruling the point of order, the Speaker of the House relies upon an opinion of the Attorney General, dated January 30, 1925, signed by L. C. Sutton, Assistant Attorney General, and approved by Dan Moody, Attorney General. (A copy of this opinion is attached hereto.)

The Attorney General held that a two-thirds majority was not necessary, and cited for his authority the case of Aransas Pass, et al., v. Keeling, 112 Texas 399. The Aransas Pass case is not in point. The Act the Legislature passed upon it that case was enacted under Section 8 of Article 11 of the Constitution, which gives special authority to the Legislature to aid counties and cities on the Gulf Coast, and does not require a two-thirds vote as does Section 10 of Article 8.

Since that opinion was rendered, and subsequent to the opinion of the Attorney General above referred to, the Honorable Claude Pollard, Attorney General, on March 9, 1925, rendered an opinion construing several measures similar to the one now under consideration (S. B. No. 9), in which he held that such measures could not be enacted under the "calamity provision" of the Constitution. (Section 10, Article 8.) This is a very learned opinion, and it deals with the subject at great length. (Copy of the opinion is attached hereto.)

There is also attached a copy of the points of order raised in the Senate when this bill was under consideration.

During the debate on this bill in the Senate, the proponents referred to what is known as the Hidalgo County case (Martin v. Hidalgo County, 271 S. W. 436) as sustaining their position that such measures may be passed under the "calamity provision" of the Constitution. The case does not so hold. It simply

said that legislative determination of the existence of great public calamity is conclusive on courts.

The members of the Legislature should be informed as to the contents of the Pollard opinion, as well as the points of order raised in the Senate, as a guide to an intelligent vote on this measure.

The State can extend financial aid to counties, cities or districts only in the following ways:

1. A grant of public money under Section 51 of Article 3 in case of public calamity. But note that this would come within Section 6 of Article 8 which prohibits the drawing of any money from the Treasury except by specific appropriations for not longer than two years.

2. Relief by the State to counties and cities on the Gulf Coast is authorized by Section 8 of Article 11. The Supreme Court of Texas held in the case of *City of Aransas Pass v. Keeling*, 112 Texas 339, that the donation of taxes to Aransas Pass was justified under this Section 8 of Article 11, and being thus authorized was not limited by Section 6 of Article 8, that there must be an appropriation for only two years. Note that this case does not hold that a grant under Section 51 of Article 3 would be free from Section 6 of Article 8.

3. Release of taxes under Section 10 of Article 8 in case of a public calamity. Under the specific terms of the constitutional provision the vote must be by two-thirds of each house.

4. Use of State money for governmental purposes through a county or governmental agency. In the case of *Read District v. Allred*, 68 S. W. (2d) 164, it was held that the State could not extend aid to a road district to reimburse it for bond money which was not spent on State highways. This was an opinion of the Commission of Appeals and the opinion was adopted by the Supreme Court. Relief under this power depends upon what the court construes to be a governmental purpose. Since Section 59a of Article 16 authorizes the creation of water conservation, etc., districts and specifically provides for district bonds, it is difficult to see how the implied power of the State to pay the cost could be justi-

fied. The district financing would seem to preclude State financing.

See also *Jones v. Alexander*, 122 Texas 328, Com. App., opinion by Sharp, adopted by Supreme Court. "The Constitution prohibits the Legislature from appropriating public money to other than strictly governmental purposes."

The proponents of a bill to "donate" taxes for a number of years say that this is not a release under Section 10 of Article 8. But this is a very technical attitude for the State never, in fact, has the taxes paid into the State Treasury, and for that reason the action is really a release and not a donation. Is it possible that the Supreme Court, by saying in the *Aransas Pass* case that the action was a "donation" under Section 8 of Article 11 clouded the issue? If so, then, a "donation" can be authorized only under that section of the Constitution in which the very word "donation" is used. It is significant that the word "donation" is used only in Section 8 of Article 11 and is not used in Sections 50, 51, 52, 53, etc., of Article 3, but, instead, the terms "grant" or "grant of public money" are used. In Section 10 of Article 8 "release" of taxes is the expression used.

If it is brought to the attention of proponents of so-called donations of taxes (not under Section 8 of Article 10), that such donations can last for only two years under Section 6 of Article 8, and then only for a public calamity, they might be more cautious.

(Copy of opinion by Attorney General Dan Moody.)

The State of Texas  
Office of the Attorney General  
Austin

Austin, Texas, Jan. 30, 1925.  
Hon. Lee Satterwhite, Speaker of the  
House of Representatives.  
Capitol.

Dear Sir: Your secretary delivered to me your inquiry of date the 29th inst., reading as follows:

"Hon. Dan Moody, Atty. Gen.,  
Austin, Texas.

My dear Mr. Moody:

The question has arisen as to whether or not the Legislature is required to pass an Act permitting

taxes for future collection by two-thirds vote of the members present of the Legislature.

The earliest reply possible will be very greatly appreciated.

Very respectfully,

(Signed) LEE SATTERWHITE,  
Speaker of the House."

Upon receipt of this inquiry on yesterday the writer was under the impression that the above question had arisen in reference to a tax releasing act within the meaning of Section 10 of Article 8 of the State Constitution, and that the question was whether in order to pass such an Act, a vote of two-thirds of those present was yes.

As distinguished from a vote of two-thirds of those elected to each house.

The writer advised your secretary that he was of the impression that a two-thirds vote of those present constituting a quorum was necessary and sufficient to pass such a bill and that a two-thirds vote of those elected to each house was not necessary and further that we would investigate the question fully and advise you definitely later.

We have investigated the question and find that the tentative advice given was correct. 25 R. C. L. p. 882.

However, it develops that the bill in reference to which some question has arisen is S. B. No. 67, by Holbrook, and we now have your inquiry of even date reading as follows:

"Hon. Dan Moody, Atty. Gen., State of Texas., Austin, Texas.

Dear Sir:

There has been a question raised in the House as to whether or not the Constitution requires a two-thirds vote for the passage of the so-called "Galveston Bill." I would appreciate very much your idea of the constitutional intent in this matter.

Thanking you, I am

Very truly yours,

(Signed) LEE SATTERWHITE,  
Speaker of the House."

The Holbrook bill has for its purpose the donation and grant of certain State taxes collected over a certain period to the City of Galveston to be used for the elevation and raising of streets, avenues, alleys, sidewalks, and roads in said city above calamitous overflows and for securing and protecting such filling.

The question is whether a two-thirds vote of those present is necessary in each house to pass this bill. The bill does not purport to release inhabitants or property from the payment of taxes, but rather it provides for the collection of the State taxes dealt with in the Act and donates the same to the City of Galveston as above mentioned.

After a careful examination of this bill, we are of the opinion that in so far as your question is concerned, it is similar to the Act of the Legislature passed upon by the Supreme Court in the case of City of Aransas Pass, et al., v. W. A. Keeling, Attorney General, 112 Texas 339, in which the Supreme Court sustained an Act donating to the City of Aransas Pass certain State taxes in the same manner that the Holbrook bill donates taxes to the City of Galveston. The Act passed upon by the Supreme Court in the case just mentioned was Chapter 2, General Laws, Third Called Session of the Thirty-sixth Legislature which did not receive a two-thirds vote in each house and, therefore, did not take effect until ninety days after adjournment, although containing the emergency clause purporting to place it in immediate effect. The Supreme Court sustained the validity of the Act as against every contention made against it and in its decision clearly treats the Act as having a different purpose than the releasing of taxation within the contemplation of Section 10, of Article 8 of the Constitution. Three companion Acts to the Aransas Pass Act were also passed without a two-thirds vote. (Chapters 23, 24, 25) and all four Acts have been acted on and administered for nearly five years.

After carefully considering S. B. No. 67, by Holbrook, in the light of Section 10 of Article 8 of the Constitution and the decision of the Supreme Court in the case above mentioned, we are of the opinion that the bill does not seek to release taxation within the meaning of Section 10 of Article 8 of the Constitution.

Finding no other provision in the Constitution requiring such a bill to receive more than a majority vote, we respectfully advise you that in our opinion it will have passed in the House and Senate if it receives the vote of a majority of those pres-

ent in each house constituting a quorum.

Yours very truly,

(Signed) L. O. SUTTON,  
Assistant Attorney General.

Approved:

(Signed) DAN MOODY,  
Attorney General.

(Copy of opinion by Attorney General Claude Pollard, printed in House Journal, Fortieth Legislature, Regular Session, page 1183.)

**Constitutional Law—Construction of Article VII, Section 10, Legislature Cannot Release Persons and Property From Taxes Except in Case of "Great Public Calamity"—What Is "Great Public Calamity"—Dallas, Tarrant, Starr and Tyler County Bills.**

Offices of the Attorney General.

March 9, 1927.

Honorable W. S. Barron,  
House of Representatives,  
Austin, Texas.

Dear Mr. Barron:

You, in conjunction with Messrs. O. L. Parrish, J. A. Merritt, A. H. King, J. C. Rogers and J. F. Wallace, members of the Legislature, submit to me copies of Senate Bills Nos. 228, 229, and 293 pending before the Fortieth Legislature, and ask for my opinion as to the constitutionality of same.

Senate Bill No. 228 has as its purpose the control of the flood waters of Trinity River, declaring that a great public calamity exists that requires immediate legislation for the protection of the loss of lives and property; it provides for the issuance of bonds and for the release of a portion of the State ad valorem tax within said district not to exceed 23 cents on the \$100.00 assessed valuation for a period of twenty-five years from and after December 21, 1928. It, by its terms, is offered under the provisions of Section 10 of Article 8 of the Constitution. The area of the district is not given in the Act, but my information is that it contains several thousand acres of land.

Senate Bill No. 229 is an Act releasing inhabitants of, and property subject to the taxation of Dallas Levee Improvement District, and Dallas County Levee District No. 5, for a period of twenty-five years from pay-

ment of ad valorem taxes levied for State purposes, to prevent great public calamities in said district caused by high waters and overflows. By its terms, it is offered under Section 10 of Article 8 of the Constitution. The boundaries of this district are not given, but my information is that it likewise, contains many thousand acres. This Act states that the property included within the districts involved, was in years 1890, 1908, 1913, 1914, 1915, 1916, 1918, 1920 and 1922, greatly damaged by high water and overflows.

Senate Bill No. 259 is an Act making a grant, or donation to Starr County of a portion of the State ad valorem taxes for a period of twenty-five years, to enable said county to construct levees, etc., to protect it from disastrous and calamitous overflows. It recites that there is a large area of the county subjected practically every year to great damage by high waters and overflows, and a grant is made to the county of all State ad valorem taxes in excess of 5 cents on the \$100.00 valuation. It is not, by its terms, offered under Section 10 of Article 8, but must be authorized under it, or it must fail.

Senate Bill No. 293 is an Act granting and donating to Tyler County for a period of fifteen years, that part of the State ad valorem tax in excess of 10 cents on the \$100.00 valuation. It is stated that the county depository failed, and the county lost a large sum of money by reason of such failure, which has left it in poor financial condition.

These Acts all depend for authority for their enactment upon a proper construction and application of Section 10 of Article 8 of the State Constitution.

I am not unmindful of the matter of public interest involved in the proposed legislation, but with the policy of the law this department has nothing to do. Its functions end with a definite statement of what it conceives to be the law.

The Constitution of 1846, Article 7, Section 27, provided that taxation should be equal and uniform throughout the State, and that all property should be taxed in proportion to its value, "except such property as two-thirds of both houses



of the Legislature may think proper to exempt from taxation."

Section 28 of the same article authorized the Legislature to exempt from taxation \$250.00 worth of household furniture.

These identical provisions were carried forward into the Constitution of 1861 and of 1866, and appear in both as Article 7, Section 27 and 28. The provisions in the identical language were also carried forward into the Constitution of 1869, and appear as Article 12, Section 19.

During these years, and prior to the adoption of our present Constitution, the Legislature of Texas exercised rather extensively, its power to exempt property from taxation. This power it had the right to exercise since no constitutional provision was violated thereby, for in addition to the inherent power of a State Legislature to exempt property from taxation, unless expressly prohibited by the Constitution, the provisions of these Constitutions expressly authorized such exemptions as the Legislature "may think proper." A few of the many instances are given of the exercise of this power.

In 1870, the Legislature incorporated the Washington Fire Engine Company No. 1 of the City of Austin, and expressly provided that its property should be exempt from taxation for State and county purposes. (Gammel's Law, Vol. 6, page 524.) During the same session, an Act was passed authorizing one A. M. Nigs to sell, barter and trade in goods, wares and merchandise anywhere in the State of Texas, free of any State, county or city incorporation tax. (Gammel's Law, Vol. 6, page 639.) At the same session, laws were passed exempting from taxation the bonds of the United States, and of the corporation of the City of Houston, and all cemetery lots and the property of all churches, Masonic and Odd Fellows Lodges and other charitable associations. (Gammel's Laws, Vol. 6, page 76.)

Like wise, the capital stock and property of the International Railroad Company was exempted for five years from August 5, 1870 (Vol. 6, page 109); and the capital stock and property of the Texas Timber & Prairie Railroad Company for 10 years after completion (Vol. 6, page

308); and the property of Gymnastic Association of New Braunfels from State, county, occupation or other taxes. (Vol. 6, page 320.)

The Legislature of 1873 released all State ad valorem and poll taxes that were at that time, or that might thereafter be assessed against the residents of the counties of Montague, Wise, Parker, Hood, Erath, Hamilton, Lampasas, Burnet, Blanco, Kendall, Bandera, Medina, Frio, McMullen, Duval, Starr and all counties lying west and southwest of same. (Gammel's Law, Vol. 7, page 59.) The basis of the release was stated to be for the purpose of protecting the frontier from the invasion of Indians. The Legislature of 1875, expressly repealed this law. (Vol. 8, page 382.)

During these years, there were many similar laws, evidencing an unlimited extensive exercise of its power to exempt persons and property from taxation, and many Acts making donations to counties, and authorizing counties to issue bonds for the purpose of promotion of railroad construction, etc.

These constitutional provisions and this legislative history constitute the background of the provision we are called upon to construe.

As a future protection against legislative action as it relates to the matter of taxation and the public funds, there was incorporated into the Constitution of 1876, several provisions which are pertinent in construing the one before us.

As to granting of public money to individuals or counties, Article 3, Section 51, of the original Constitution of 1876, provided that "the Legislature shall have no power to make any grant, or to authorize the making of any grant of public money to any individual, association of individuals, municipal or other corporation whatsoever; provided, that this shall not be so construed as to prevent the grant of aid in case of a public calamity."

This article was amended in 1912, and the words: "provided, that this shall not be so construed as to prevent the grant of aid in case of public calamity," were eliminated. As amended, this particular article of the Constitution could have but one construction, and that is, that the Legislature cannot in any event,

make any grant, or authorize the making of any grant of public money to any individual, association of individuals, municipal or other corporation whatsoever; even in case of a public calamity.

Therefore, if by any rule of construction, the provisions of these Acts might be brought under the terms of this section of the Constitution, there is clearly no authority in the Legislature to enact them. Senate Bill No. 259 relating to Starr County and Senate Bill No. 293 relating to Tyler County, purport by their very terms to be a grant by the State to these counties of a portion of the ad valorem taxes of said counties, constituting the revenues of the State; and therefore, if in truth and in fact, these Acts are to be construed as their terms indicate, is the purpose of the law, they must both fall under this provision of the Constitution.

Going further, in an effort to guard against the evils which had existed theretofore, Section 55 of Article 3 prohibits the Legislature in any event from releasing, extinguishing in whole or in part, the indebtedness, liability or obligation of any incorporation, or individual, to the State, or to any county, or other municipal corporation therein.

While this provision of the Constitution does not directly bear upon the question before us, it is important as indicating the extent to which the framers of the Constitution endeavored to go in protecting the public revenues from donation to individuals or municipalities, either directly or through the release of any indebtedness lawfully owing by them to the State. An indebtedness for taxes due to the State, or to the county, or to any other municipal corporation, is a debt under this provision of the Constitution, which the Legislature has no power to release or extinguish.

Two of the Acts in question, expressly purport to have a basis for authority of enactment, Article 8, Section 10, which was contained for the first time in the Constitution of 1876, and all of them must stand or fall under it. It is as follows:

"The Legislature shall have no power to release the inhabitants of, or property in any county, city or town, from the payment of taxes

levied for State, or county purposes, unless in case of great public calamity in such county, city or town, when such release is made by a vote of two-thirds of each house of the Legislature."

This is a prohibitory provision of the Constitution and the proponents of the bills must come within the exception to this express prohibition in the Constitution. It is proposed to enact these bills on the assumption that they come within the exception; in that, the purpose and intent of the Acts is to relieve counties, cities and towns against a "great public calamity."

The Constitution of 1876, containing this provision, became effective on the 18th day of April of that year. Within less than four months after it became effective, the Legislature of Texas was presented with a situation which required a construction and application of it, arising by reason of a cyclone or storm of wind and rain in Montague County on the 5th day of May of that year. On August 15th, it passed an Act "for the relief of the citizens of Montague County," based upon statements contained in the Act, that the storm had almost entirely destroyed the dwellings, fences, barns, personal property and growing crops of the inhabitants of the county, and based on this "great public calamity" it released the taxes for the years of 1876 and 1877 (Gammel's Laws, Vol. 8, page 1294.)

At the same session of the Legislature, an Act was passed "to release from taxation the property of certain citizens of Matagorda and Brazoria Counties located within a certain particular territory, by reason of the calamitous storm upon the coast in September, 1875, and the release was from taxes for 1876 only." (Gammel's Laws, Vol. 8, page 1295.)

At the same session of the Legislature, the persons and property of the town of Indianola in Calhoun County, were exempt from taxation for the year of 1876 by reason of the same storm. (Vol. 8, page 1296.)

The Acts of the Legislature, coming within so short a time after the adoption of the Constitution, clearly indicate the intent of the provision under consideration, as understood by the Legislature. It is noted that

the "great public calamities" involved, were storms and cyclones, unexpectedly occurring, disastrously affecting whole communities, and that the release from taxation was for only two years for the purpose of enabling those who had been injured by the calamity, to recover from its disastrous effects.

The Twenty-eighth Legislature in 1903, passed an Act releasing the town of Goliad from State and county taxes for the year of 1902 by reason of a cyclone of most unusual and terrific violence, resulting in great loss of life and the destruction of property. The same Legislature donated to Brazoria County the State ad valorem and a portion of the occupation taxes, for the period of two years, on account of the terrific and destructive hurricane of 1900.

The same Legislature passed an Act donating taxes to the City of Galveston by reason of the same great public calamity; this donation being for a period of fifteen years.

The Thirty-fifth Legislature passed an Act, remitting State taxes to the city of Paris in Lamar County, for five years, by reason of a calamitous fire, which destroyed all municipal buildings, including the courthouse, school houses, etc., churches and hundreds of homes, and the entire business district.

The same Legislature remitted a portion of the State taxes to the Garrison Independent School District for a period of five years, by reason of a calamitous fire which destroyed all of the buildings and equipment of the district.

Each of these Acts clearly came within the provisions of the Constitution under consideration, because there was presented to the Legislature a situation which disclosed that a great public calamity had occurred, calling for the exercise of its power for the releasing of persons and property from taxes.

It is significant that in none of these instances, was the release granted for any considerable time, except that of Galveston, and authority to grant relief to it cannot be disputed in view of the great public calamity, relief against which was sought.

Under the provisions of an entirely separate section of the Consti-

tution, viz: Section 8 of Article 11, which authorizes the Legislature to grant aid to counties and cities on the Gulf Coast, several Acts have been passed remitting State and county taxes, to-wit: That of the Thirty-fifth Legislature to Corpus Christi; that of the Thirty-sixth Legislature to Aransas Pass; that of the Thirty-sixth Legislature to Rockport; that of the Thirty-sixth Legislature to Port Lavaca and of the same Legislature to Freeport, and of the Thirty-seventh Legislature to Corpus Christi, but the authority to act in these instances is based upon a different constitutional grant.

In addition to the Acts above mentioned, the Thirty-eighth Legislature passed an Act releasing State taxes to the inhabitants of Hidalgo County for twenty-five years, and of Wharton and Matagorda Counties; and the Thirty-ninth Legislature passed an Act remitting taxes to Cameron and Willacy Counties. In the last mentioned Act, the authority is based upon the provision of the Constitution authorizing the granting of relief to counties upon the Gulf Coast.

In the Act relating to Wharton County, and a part of Matagorda County, the authority is based upon Section 10 of Article 8, and likewise, any authority for passing the Act relating to Hidalgo County must be based upon the same provision of the Constitution, and in fact, by its very terms, is so based.

As to Hidalgo County, it was stated in the Act that during the preceding year, there had been a calamitous overflow, whereby great property damage was done and many inhabitants drowned.

The above constitutes the Legislative history under Article 8, Section 10, of the Constitution, as well as under Article 11, Section —. With the exception of the relief granted to Wharton and Hidalgo Counties, the Legislature has never exercised any power under Article 8, Section 10, except to relieve against a "great public calamity" that had already occurred. I refrain from discussing the two exceptions to this history, as they are not before me.

A proper conclusion, of course, depends on what is meant by the words: "great public calamity." "Calamity" is defined to be "any occurrence, especially when sudden

and unexpected, that causes great or widespread distress, trouble or affliction to individuals, or to the community, as the failure of crops, an earthquake, the devastation of war or plague, or an extensive fire or flood." (Corpus Juris, Vol. 9, page 1116.) It is further defined as: "any great misfortune, or cause of misery, generally applied to events or disasters which produce extensive evil, either to communities or individuals." (Webster's Revised Unabridged Dictionary.)

I think the words were used as indicated in the construction given them by the Legislature of 1876, and succeeding ones, except those of recent years, as meaning "sudden and unexpected events which produce widespread distress or loss." I do not think it was ever intended by the framers of the Constitution that permanent existing conditions, although unfortunate, and although occasionally causing loss of property, were intended to be corrected by the release of the property located therein, from the payment of taxes. I do not believe that the framers of the Constitution intended to grant to the Legislature the power to release property from taxes during long periods of future time, solely by reason of the fact that the property might be located at some place where it was subject to overflows from year to year. If this is the correct interpretation of the Constitution, there could scarcely be found in certain portions of this State, a single county which would not have the right to have its inhabitants and property within certain defined territories of it, released from taxes. There are in many counties in this State, land so located as that it is subject to periodical overflows, creating great loss of property, but this permanent situation of property in relation to streams which makes it subject to overflow, is not such an occurrence, or event, or happening as could be brought within the term: "great public calamity." What is the "great public calamity" relief from which is sought to be given in the Acts presented? In one of the bills, (S. B. No. 229) there is the statement that during several years, the last being five years ago, certain property overflowed and great damage was done; in two others (S. B.

Nos. 228 and 259), that a large area of productive and cultivated land is subject to damage by overflow; and in the other (S. B. No. 293) that the county depository has failed.

Not being influenced by the consideration of public good which might be accomplished by legislation, I am of the opinion that none of these situations come within the provisions of the Constitution, that gives the Legislature power to release persons and property from taxation, in case of "great public calamity."

Under the provision of the Constitution the Legislature would not have the power to release the inhabitants of, or property in any county, city or town, from taxes, except to grant relief for a calamity that has already occurred, and would not have the power under this provision of the Constitution, to release from taxes so as to prevent a possible occurrence of a great public calamity in the future. The provision is one to cover emergencies, sudden and unexpected occurrences of events, and disasters which produce great and widespread distress and loss to whole communities.

My attention has been directed to the decision of the Supreme Court in the case of *Aransas Pass vs. Keeling*, 112 Texas 339, as an authority for this legislation. The Act under consideration in this case granted to Aransas County the ad valorem taxes for a period of twenty years. This Act, as heretofore indicated, was passed under a provision of the Constitution entirely different from the one we are now considering. (Section 8, Article 11), which provided that as the counties and cities on the Gulf Coast were subject to calamitous overflows, the Legislature was expressly authorized to aid, either by donation of the domain, or in such other mode as may be provided by law, the construction of seawalls, etc. There was nothing involved in this case at all pertinent to a construction of Section 10, Article 8.

It is true that the court considered the facts of the particular case before it, in order to determine as to whether or not it was authorized under the following provision of the Constitution:

"The counties and cities on the

Gulf Coast being subject to calamitous overflows, and a very large proportion of the general revenue being derived from those otherwise prosperous localities, the Legislature is specially authorized to aid \* \* \*, the construction of seawalls, etc."

The court held that the remission of a portion of the State ad valorem taxes upon the property of San Patricio County, which bordered upon the Gulf Coast, was authorized under this section of the Constitution. It is to be noted, however, that this constitutional provision expressly states the location of the counties and cities that might receive aid, and the reason why; that is, counties and cities on the Gulf Coast, and because they were subject to calamitous overflows.

The court referred to Article 8, Section 10 of the Constitution as being a related provision, authorizing relief in certain cases, but there is nothing in this opinion which would indicate that the court thought that because a county or city in other portions of the State might be subject to calamitous overflow, it would come within the provisions of Section 10, Article 8, authorizing a release of taxes in case of a great public calamity.

The right of a State Legislature to limit its power of taxation, and to exempt persons and property from taxation, is inherent, unless there is a prohibition in the Constitution. In our State it has been uniformly held that this power is not unlimited, and that under the provision that "taxation shall be equal and uniform," the Legislature has no power to exempt any person or property, unless it is expressly authorized so to do by some provision of the Constitution.

We are here confronted with an express prohibition against release from taxation, and the contemporaneous construction of the provision by the Legislature of the State, as we have heretofore indicated, is not such as to justify the view that it was ever intended to be applied to permanent existing situations, as attempted in the Acts before us, but only as a temporary relief against widespread disaster by reason of an unexpected emergency.

My attention has also been directed to Article 16, Section 59, which relates to the conservation and

development of the natural resources of the State, including the control, storing, preservation and distribution of its storm and flood waters, and the creation of conservation and reclamation districts; and it is suggested that the provision that authorizes the Legislature to pass "all such laws as may be appropriate thereto" would justify the passage of the Acts under consideration. I do not believe this provision of the Constitution can be so construed.

The purposes of the two provisions are entirely different. Two of the Acts under consideration expressly purport to be justified under Article 8, Section 10, as relief against great public calamities. The purpose of Article 16, Section 59, is the organization of districts and the issuance of bonds to provide for the use of storm and flood waters; for irrigation and the reclamation and irrigation of arid lands; for the reclamation and drainage of overflowed lands and the conservation and development of forests, which is an entirely different purpose from that of granting relief by reason of calamitous overflows. One involves progressive development of the State by the preservation of its natural resources; the other involves relief from disasters by reason of a great public calamity.

While the Legislature has never been put to the necessity of seeking constitutional authority for its enactments, specific prohibitions against the exercise of power by it, must be construed strongly against its exercise, and its right to act must come clearly within the provisions of an exception to the express prohibition. The wisdom or policy of a law is entirely within its cognizance, but the fact that the constitutional provision under a consideration requires for the exercise of its power, a vote of two-thirds of each house, clearly indicates that the people demanded that an undoubted right to come within the exception should exist.

As to how far the courts will go in determining as to whether or not the Legislature has exceeded its power in passing upon facts necessary to its exercise, is quite uncertain.

It has been suggested that when the Legislature acts in the matters under consideration, that the courts

would have no authority to go behind the enactment to determine as to whether or not there existed a great public calamity, authorizing the law.

I do not agree with this contention, and am of the opinion that if, after the Legislature enacts the bills under consideration, it should appear in any contest in the courts that the necessary facts did not exist to authorize their enactment, the court would hold them invalid, and would consider the facts to determine the issue. Otherwise, the Legislature, might at any time, declare that in any certain city, town or county, a great public calamity existed, and release the persons and property therein from taxation. The fact that the Constitution requires a two-thirds vote, in order to pass the law does not militate I think against the principle that the Act of the Legislature in passing the law does not close the door of an attack upon it for failure of conditions that would authorize its enactment.

In view of the public interest involved, I have given most careful consideration to the question submitted, and have conferred freely with, and had the briefs of, attorneys interested for their clients in a contrary view, but I am convinced that neither of these Acts may be enacted by the Legislature, without a violation of the constitutional provision.

Respectfully submitted,  
Attorney General of Texas.

The Chair, Lieutenant Governor Edgar E. Witt, overruled the point of order.

#### Reason for Vote.

I vote "yea" for S. B. No. 9, notwithstanding the fact it contains an amendment which permits the Attorney General to sit in council with the commissioners' courts of the counties involved while acting as a court of equalization, which I oppose as being unconstitutional. This amendment was placed in the bill by its enemies to defeat it, and in voting "yea" for the bill, it is my hopes that the amendment will be deleted from the bill, either by the House, or in conference.

HOLBROOK.  
MARTIN.  
WOODRUFF.

#### Point of Order.

Senator DeBerry raised the point of order that the bill had not passed the Senate, not having received the required number of votes.

The Chair overruled the point of order.

#### Senate Bill No. 27.

Senator Parr sent up the following bill:

By Senator Parr:

S. B. No. 27, A bill to be entitled "An Act to amend the caption of Chapter 10 of the laws of the Second Called Session of the Forty-third Legislature of Texas, the same being a law pertaining to milk producers, distributors and processors, and being House Bill No. 88, so as to hereafter read as follows: 'An Act declaring the policy of the Legislature to provide for the general welfare by cooperation with the Federal Government in making effective the provisions of the National Agricultural Adjustment Act and the National Recovery Act within the State of Texas with reference to producers, distributors and processors of milk and milk products; defining certain terms used in the bill; providing a local milk industry board in any county; providing that one of the members of such board be designated by the Commissioner of Agriculture in the event that such member is not elected within five days after the effective date of the code or agreement; providing that the members of each board shall serve without compensation; providing that bonds in such amounts and with such sureties as shall be determined by the board be given by all officers and employees thereof who handle any funds of such board; providing for the setting up of codes or agreements of fair competition and trade practices for the milk industry; authorizing said board to impose such conditions as are necessary to make the codes or agreements effective and to establish rules and regulations therefor; providing penalties for violation of the provisions of this Act; providing jurisdiction for county and district courts affecting the operation of the codes and agreements; directing county and district attorneys to bring actions to enforce the provisions of this Act; providing for the

amending, modification and changing of codes or agreements set up under this Act; authorizing the said board to suspend or revoke certificates of authority; providing a fee for certificates of authority and making provision for funds for the administration of this Act; providing that if any section or provision of this Act should be declared unconstitutional such decision shall not affect other provisions or portions of this Act, and to amend Sections 1 to 10, inclusive, of said Chapter 10; repealing all laws in conflict with this Act, and declaring an emergency; and to amend said Sections 1 to 10."

Read and referred to the Committee on Agricultural Affairs.

#### Senate Resolution No. 15.

Senator Hornsby sent up the following resolution:

Whereas, Hon. Bascom N. Timmons, a native Texan, a former citizen of Amarillo and now the Washington Correspondent of the Houston Chronicle and San Antonio Express, which position he has held for the past twenty-three years, and who is past President of the National Press Club of Washington, is now in our Capital City; therefore be it

Resolved, by the Senate of Texas that we extend to this distinguished citizen an invitation to address the Senate and accord him the privileges of the floor.

HORNSBY.

Read and unanimously adopted.

The Chair appointed Senator Hornsby and Senator Woodward to escort Hon. Bascom Timmons to the platform and asked Senator Hornsby to present the visitor to the Senate.

Mr. Timmons addressed the Senate briefly.

#### Senate Bill No. 20.

The Chair laid before the Senate S. B. No. 20 on its second reading.

S. B. No. 20, A bill to be entitled "An Act validating, ratifying and approving ordinances of all home rule cities in this State having a population of more than twenty thousand (20,000) and less than twenty-one thousand (21,000) inhabitants, according to the last preceding Federal census; relinquishing, discon-

tinuing, and segregating territory in the corporate limits of said home rule cities."

The bill was engrossed by viva voce vote.

On motion of Senator Duggan the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 20 was put on its third reading and final passage by the following vote:

Yeas—28.

Beck.	Pace.
Blackert.	Parr.
Collie.	Patton.
DeBerry.	Poage.
Duggan.	Purl.
Greer.	Rawlings.
Holbrook.	Redditt.
Hopkins.	Regan.
Hornsby.	Sanderford.
Martin.	Small.
Moore.	Stone.
Murphy.	Woodruff.
Neal.	Woodul.
Oneal.	Woodward.

Absent—Excused.

Cousins. Fellbaum.

. Read third time and finally passed by viva voce vote.

Recess.

On motion of Senator Pace the Senate at 4:45 o'clock p. m., recessed until 11 o'clock a. m., Wednesday.

#### APPENDIX.

##### Committee on Engrossed Bills.

Committee Room,  
Austin, Texas, Sept. 18, 1934.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Engrossed Bills have had S. B. No. 23 carefully examined and compared and find same correctly engrossed.

REGAN, Chairman.

##### Committee Reports.

Committee Room,  
Austin, Texas, Sept. 18, 1934.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Mining, Irrigation and Drainage, to whom was referred

S. B. No. 26, A bill to be entitled "An Act authorizing water control and improvement districts to assign water contracts for a period not exceeding forty years, or to assign the revenues accruing or to accrue under such contract, and to receive therefor either a lump sum in cash or outstanding bonds of said district; to sell or contract to sell water for generation of electric power over a period of not exceeding forty years; etc., and declaring an emergency."

Have had the same under consideration and I am instructed to report it back to the Senate with the recommendation that it do pass with committee amendment.

REGAN, Vice-Chairman.

#### Committee Amendment.

Amend the attached bill by inserting after the word "amended" in line four (4) of Section One (1) the following:

"located wholly within one county, such county having a population of not less than 5,000 nor more than 7,500, according to the last preceding Federal census," and amend the caption to conform.

Committee Room,

Austin, Texas, Sept. 18, 1934.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Educational Affairs, to whom was referred

S. B. No. 23, A bill to be entitled "An Act validating the creation and changes in boundaries of all independent school districts having within their limits a city with a population of 160,000 or more, according to the last preceding Federal census, validating all elections in such districts authorizing the issuance of bonds, validating bonds heretofore voted in such districts, and tax levies made to pay the principal and interest of such bonds, providing that such validation shall not apply to any district or any bonds now involved in litigation, providing that the unconstitutionality of any part of this Act shall not affect the remaining parts thereof, and declaring an emergency."

Have had the same under consideration, and I am instructed to

report it back to the Senate with the recommendation that it do pass.

NEAL, Chairman.

Committee Room,

Austin, Texas, Sept. 18, 1934.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Agricultural Affairs, to whom was referred

S. C. R. No. 11, Whereas, Under the Bankhead Act, the Secretary of Agriculture is authorized to restrict and reduce the production of cotton in Texas and other states, and to apportion to the several cotton producing states the number of bales of cotton that shall be exempted from taxation which allotment shall be determined by the ratio of the average number of bales of cotton produced in each state during the five crop years 1928-29 to 1931-32 to the average number of bales of cotton produced in all states during the same period and, under the provisions of the Act, the President of the United States is permitted to enforce same for another year if he sees fit to do so; etc.

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass.

DeBERRY, Chairman.

Committee Room,

Austin, Texas, Sept. 19, 1934.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 6, A bill to be entitled "An Act amending Article 3369, Revised Civil Statutes of Texas, 1925, correcting the same by inserting the words 'testamentary or' after the word 'letter' in the last sentence thereof, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

WOODWARD, Chairman.

Committee Room,

Austin, Texas, Sept. 19, 1934.

Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred



S. B. No. 7, A bill to be entitled 'An Act amending Article 4195-A. Acts of the Fortieth Legislature, Regular Session, Chapter 31, page 43, correcting the same by inserting the word 'ward' in place of the word 'minor' and by inserting the number '4198' in place of the number '4197' and declaring an emergency.'

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

WOODWARD, Chairman.

Committee Room,  
Austin, Texas, Sept. 19, 1934.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 8, A bill to be entitled "An Act amending Article 1043, Revised Civil Statutes of Texas, 1925, so as to permit municipal corporations whose fiscal year runs otherwise than the calendar year to require assessment to cover property possessed or controlled on the first day of the fiscal year, such inventory to be handed to the city assessor and collector within the first three months of the fiscal year, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

WOODWARD, Chairman.

Committee Room,  
Austin, Texas, Sept. 18, 1934.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on Finance, to whom was referred

H. B. No. 34, A bill to be entitled "An Act making appropriation for the continuation of malaria control by the State Board of Health, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass, with committee amendment, and be not printed.

HOLBROOK, Chairman.

#### Committee Amendment.

Amend H. B. No. 34, second line of the caption after the word "health" to read as follows:

"Providing that no funds herein appropriated or services rendered shall be expended in behalf of any private or secretarial school, hospital or institution."

Committee Room,  
Austin, Texas, Sept. 18, 1934.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 17, A bill to be entitled "An Act amending Section 3 of Chapter 67, Acts of the First Called Session of the Forty-third Legislature, same being S. B. No. 52, and as amended by Chapter 29, Acts of the Second Called Session of the Forty-third Legislature, same being H. B. No. 79, so as to provide the method of prorating the funds provided in said Chapter, fixing date for filing claims under said appropriation, providing that claims arising thereunder shall not be negotiable or assignable; providing that no commissions or fees shall be paid for presenting and/or prosecuting said claims; declaring it to be the intention of this Act to reimburse growers for expenses incurred in sterilizing cotton seed and fumigating cotton; etc., and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed in the Journal.

HOPKINS, Chairman.

By Senators Duggan, S. B. No. 17.  
Regan, Stone, Hornsby,  
Poage, Beck, Purl,  
Woodul, Cousins, Holbrook, Martin, Blackert,  
Sanderford, Collie, Rawlings and Parr.

#### A BILL

##### To Be Entitled

An Act amending Section 3 of Chapter 67, Acts of the First Called Session of the Forty-third Legislature, same being S. B. No. 52, and as amended by Chapter 29, Acts of the Second Called Session of the Forty-third Legislature,

same being H. B. No. 79, so as to provide the method of prorating the funds provided in said Chapter, fixing date for filing claims under said appropriation, providing that claims arising thereunder shall not be negotiable or assignable; providing that no commissions or fees shall be paid for presenting and/or prosecuting said claims; declaring it to be the intention of this Act to reimburse growers for expenses incurred in sterilizing cotton seed and fumigating cotton where same is produced in Texas, whether ginned in this State or some other, if said expense was charged by reason of the Texas Regulatory Laws in such cases, providing that when any claim is paid only in its proportionate part, said claim shall be receipted for in full, and no further payment made by the State on said claim, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

Section 1. Section 3 of S. B. No. 52, Chapter 67, Acts of the First Called Session of the Forty-third Legislature as amended by H. B. No. 79, Chapter 29, Acts of the Second Called Session of the Forty-third Legislature, is hereby amended so as to hereafter read as follows:

"Section 3. It is further provided that should the sum herein appropriated be insufficient to pay the claims of all growers and producers of cotton in full, then the sum appropriated shall be prorated among the growers and producers of cotton as hereinafter provided, and each such grower or producer shall receive that proportion of the total appropriation that his individual claim bears to the total claim approved by the Compensation Board.

"No part of the money herein appropriated to reimburse farmers for expenses incident to the establishment of regulated zones shall be paid directly or indirectly for commissions or fees to any person or persons for securing the passage of this bill, or for services before committees or with members of the Legislature to secure its passage, or for presenting, filing and/or prosecuting said claims before the Compensation Claim Board, or any of its agents.

"It is further provided that no claim or any part of any claim against the State, which has arisen or may arise, by virtue of, and upon authority of, the laws of this State, under whose authority this appropriation for payment of said claims is based, shall be negotiable or assignable; provided, that this provision shall in no way affect the right of executors or administrators of the estate of any claimant from presenting the claims of any such claimant who may be deceased, in the same manner such deceased claimant could have done if living.

"Said funds appropriated by Chapter 67, Acts of the First Called Session of the Forty-third Legislature same being S. B. No. 52, of said Session, shall be prorated among the valid claims of growers and producers of cotton in the zones affected in the following manner:

"First: In so far as the funds which are authorized in said appropriation are sufficient, they shall first be prorated to pay the valid claims that are filed with the Compensation Claim Board on or before April 15, 1934, and which are approved by said board.

"Second: Any funds remaining under said appropriation after the payment of the valid and approved claims, which have been filed with the Compensation Claim Board, on or before April 15, 1934, and approved by said board, have been paid in full, shall be prorated among the valid claims filed after April 15, 1934, and before October 10, 1934, and which are approved by the Compensation Claim Board.

"It is the intention of this Act to reimburse the growers and producers of cotton, which is produced in Texas, for expenses incurred in sterilizing cotton seed and fumigating cotton, whether said cotton was ginned in Texas or some other State, if said expense to the grower was charged by reason of the Texas regulatory laws in such cases.

"Provided that when any claim, payment of which has been authorized under the Act herein amended, is paid only in its proportionate part, the said claim shall be receipted for in full, and no further amount shall ever be paid by the State for such claim."

Sec. 2. The fact that Chapter 67, Acts of the First Called Session of the Forty-third Legislature, and Chapter 29, Acts of the Second Called Session of the Forty-third Legislature, fixed no definite date for the payment of claims approved by the Compensation Claim Board and which were filed after April 15, 1934, thereby delaying the reimbursement of those entitled to such payments from said appropriation, create an emergency and an imperative public necessity that the constitutional rule, requiring bills to be read on three several days in each House, be suspended, and said rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted.

Committee Room,  
Austin, Texas, Sept. 18, 1934.  
Hon. Edgar E. Witt, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

H. B. No. 32, A bill to be entitled "An Act defining 'oleomargarine' and other terms used in this Act; imposing a tax of Ten (10) Cents per pound on certain oleomargarines; prescribing the method of collecting said tax; providing for the keeping and furnishing of records, certificates, and reports; providing and regulating the manner of shipment and delivery of oleomargarine; fixing liability for taxes; authorizing the State Comptroller to enforce the provisions of this Act, to collect the taxes levied hereunder, and to prescribe and promulgate rules and regulations looking to the enforcement of this Act; providing for the disposition of taxes levied and collected hereunder; requiring certain information to be shown on packages, containers, and wrappers of oleomargarine; providing for forfeitures and penalties for violation of Act; providing that if any of the provisions of this Act shall be invalid, the validity of the other provisions thereof shall not be affected, and declaring an emergency."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass.

HOPKINS, Chairman.

## SEVENTEENTH DAY—Cont'd.

### After Recess.

Senate Chamber,  
Austin, Texas,  
September 19, 1934.

The Senate met at 11:00 o'clock a. m., pursuant to recess, and was called to order by the Lieutenant Governor, Edgar E. Witt.

### Conference Committee.

The Chair appointed the following Senators on the Free Conference Committee on H. B. No. 1:

BECK,  
MARTIN,  
MOORE,  
WOODWARD,  
WOODRUFF.

### Bill Signed.

The Chair, Lieutenant Governor Edgar E. Witt, gave notice of signing, and did sign, in the presence of the Senate, after its caption had been read, the following bill:

H. B. No. 14.

### Senate Bill No. 4.

The Chair laid before the Senate on its second reading the following bill:

S. B. No. 4, A bill to be entitled "An Act authorizing cities having more than sixteen thousand inhabitants as shown by the last Federal census, preceding such action, and containing a junior college within their corporate limits, to establish community centers consisting of all land and buildings or structures necessary therefor, including gymnasiums, auditoriums, natatoriums and dormitories to furnish residence to teachers and students attending schools and college in any such city, etc.; and declaring an emergency."

Senator Martin sent up the following amendment to S. B. No. 4:

Amend S. B. No. 4 as follows: By striking out of Section One all of line 9 after the word "having" and all of line 10 and the letters "ing" in line 11.

MARTIN.

Read and adopted by vica voce vote.